


APR 27 2006

1103326-0203 CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Lundberg et al.
Serial No. : 10/693,317
Filed : October 23, 2003
For : NEW PHARMACEUTICAL FORMULATION
AND PROCESS
Examiner : Sheikh, Humera N.
Group Art Unit : 1615

CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. 1.8	
I hereby certify that this paper is being facsimile transmitted to the U.S. Patent and Trademark Office on April 27, 2006 at the facsimile number 571-273-8300.	
John M. Genova	32,224
Attorney Name	PTO Reg. No.
	27 April 2006
Signature	Date of Signature

MAIL STOP AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attention: Examiner Humera N. Sheikh
Pages: 10

Amendment

and

Petition for Suspension of Prosecution under 37 C.F.R. §1.103

Sir:

Applicants submit this Amendment in response to the Office action, mailed November 2, 2005. Upon entry of the Amendment, no outstanding action exists in this application. Applicants petition, therefore, for a six (6) month suspension of prosecution under 37 C.F.R. §1.103 for the reasons given herein.

Petition for Suspension of Prosecution under 37 C.F.R. §1.103 begins on page 2 of this paper.

Listing of Claims begins on page 3 of this paper.

Remarks begin on page 9 of this paper.

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USSN10/693,31, filed October 23, 2003
Attorney Docket No. 1103326-0203 CON
Page 2 of 10

PETITION FOR SUSPENSION OF PROSECUTION UNDER 37 C.F.R. §1.103

Applicants petition for the suspension of action in the instant application. Upon entry of the accompanying Amendment in response to the Office action, mailed November 2, 2005, there is no outstanding action in this application. The suspension of action is requested for a reasonable period of six (6) months.

The instant application is the great-great-grandchild of U.S. Patent Application Serial No. 08/612,951, filed March 8, 1996, now US 6,013,281 (the "281 patent"), issued January 11, 2000, which is a §371 of PCT/SE96/00161, filed February 9, 1996, which claims priority to SE 9500478, filed February 9, 1995. As noted in the Information Disclosure Statement ("IDS"), filed December 7, 2004, the '281 patent was the subject of a patent infringement litigation, i.e., In re Omeprazole Patent Litigation, 2004 WL 1171254 (S.D.N.Y.). A copy of the court's written decision was submitted as part of the IDS. Receipt and consideration of the IDS is acknowledged at page 2 of the Office action.

An appeal of the court's decision, including a cross-appeal, regarding the holding of invalidity of claims 1-3, 7, 16, 20 and 21 of the '281 patent, docketed as *Astra Aktiebolag v. Andrx Pharma*, Nos. 04-1562, -1563, -1589, is presently pending before the Court of Appeals for the Federal Circuit. Clearly, the disposition of the appeal is pertinent to the present application.

It is respectfully submitted that the pending appeal satisfies the threshold for good and sufficient cause to grant Applicants' present petition for suspension of action by the Office under 35 U.S.C. §1.103.

Authorization is given to charge the fee \$200.00 set forth in 37 C.F.R. §§1.17(g) to Deposit Account No. 23-1703.